

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MARCO GARNICA,

Plaintiff,

v.

WASHINGTON DEPARTMENT OF  
CORRECTIONS, ELDON VAIL,  
RONALD FRAKER, BRENT CARNEY,  
JAY A JACKSON, JAMIE CALLEY,

Defendants.

CASE NO. C12-5544 RJB-KLS

ORDER DENYING MOTION FOR  
SERVICE

Before the Court is Plaintiff's Motion for Service by U.S. Marshal. ECF No. 18. Plaintiff requests that the Court issue summons and direct the U.S. Marshal to serve the summons and complaint in this matter on Defendants Ronald Fraker and Jamie Calley. Plaintiff will also seek to have Defendants Jay Jackson and Brent Carney similarly served after he obtains their addresses. ECF No. 18. Plaintiff originally filed his lawsuit in Thurston County Superior Court and it was transferred to this Court by Defendant Washington Department of Corrections. ECF No. 1. He has not been granted leave to proceed *in forma pauperis* in this Court.

**DISCUSSION**

Fed. R. Civ. P. 4 (c)(3) provides:

At the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed *in forma pauperis* under 28 U.S.C. § 1915 or as a seaman under 28 U.S.C. § 1916.

1 The rule allows the Court to order service by the Marshal when requested, and mandates  
2 it for *in forma pauperis* prisoner plaintiffs proceeding under 28 U.S.C. § 1915. Although  
3 Plaintiff was granted leave to proceed *in forma pauperis* in the state court, he has not requested  
4 nor been granted leave to proceed *in forma pauperis* in this case in this Court. Therefore, he  
5 must submit the appropriate application before the Court may consider his motion for service.

6 In addition, an *in forma pauperis* plaintiff still bears the burden of providing accurate and  
7 sufficient information to effect service of the summons and complaint. When a *pro se* plaintiff  
8 fails to provide the court with accurate and sufficient information to effect service of the  
9 summons and complaint, the Court's *sua sponte* dismissal of the unserved defendant is  
10 appropriate. *Walker v. Sumner*, 14 F.3d 1415, 1421-22 (9th Cir. 1994) (quoting *Puett v.*  
11 *Blanford*, 912 F.2d 270, 275 (9th Cir. 1990)), abrogated on other grounds by *Sandin v. Connor*,  
12 515 U.S. 472 (1995). If a plaintiff requires additional time to research and effect service, the  
13 Court will consider a motion for a good cause extension of time for an appropriate period  
14 pursuant to Fed. R. Civ. P. 4(m).

15 Plaintiff must first apply for and be granted *in forma pauperis* status in this Court before  
16 the Court will direct service of his complaint. Accordingly, it is **ORDERED**:

17 (1) Plaintiff's motion (ECF No. 18) is **DENIED**.

18 (2) The Clerk shall send Plaintiff the appropriate forms to submit an application to  
19 proceed *in forma pauperis*.

20 (3) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.

21 **Dated** this 24<sup>th</sup> day of September, 2012.

22  
23   
24 Karen L. Strombom  
United States Magistrate Judge